

ORDINANCE NO. 2020-02A

**FIRST AMENDED ORDINANCE CONTINUING DISASTER
DECLARATION AND INSTITUTING AND CONTINUING CERTAIN
EMERGENCY MEASURES DUE TO A PUBLIC HEALTH EMERGENCY
IN THE CITY OF MARFA**

AN ORDINANCE INSTITUTING EMERGENCY MEASURES DUE TO A PUBLIC HEALTH EMERGENCY, INCLUDING PROVISIONS REGARDING THE CONTINUED CLOSURE OF BARS, RESTAURANTS, AND HOTELS; REGULATION OF SHORT-TERM AND LONG-TERM RENTALS AND RENTAL ADVERTISING; LIMITING THE NUMBER OF PEOPLE IN GATHERINGS TO NOT MORE THAN TEN; WAIVER OF LATE FEES AND PENALTIES FOR CITY UTILITY CUSTOMERS; RECLASSIFYING SHORT-TERM RENTALS AS RESIDENCES FOR SOLID WASTE DISPOSAL PURPOSES; CONTINUING PENALTY AND ENFORCEMENT PROVISIONS; ENSURING THAT CITY UTILITIES WILL NOT BE DISCONNECTED; AND AUTHORIZING THE MAYOR TO MAKE ADJUSTMENTS TO THESE PROVISIONS WITHIN THE CITY LIMITS OF THE CITY OF MARFA TO PREVENT OR LIMIT THE SPREAD OF COVID-19; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on March 13, 2020, the Governor of the State of Texas declared a state of disaster and the President of the United States of America declared a national emergency in relation to the pandemic spread of COVID-19; and

WHEREAS, by declaration issued on March 19, 2020, Mayor Manuel V. Baeza declared a local state of disaster for the City of Marfa resulting from a public health emergency; and

WHEREAS, Texas Government Code §418.108(b) states that a Mayoral Declaration will expire unless it is continued by the Marfa City Council not more than seven (7) days from the date of issuance; and

WHEREAS, as of April 8, 2020, the CDC confirmed 395,011 cases of and 12,754 deaths from COVID-19 in the United States, up from 4,226 cases and 75 deaths on March 17, 2020; and

WHEREAS, on the date of passage of and of first amendment to this ordinance, there are no confirmed cases of COVID-19 within the City of Marfa; and

WHEREAS, the City of Marfa is an international tourist destination with very limited medical facilities (no hospital and 2 local clinics) and a lack of medical equipment such as ventilators; and

WHEREAS, emergency measures are therefore necessary to protect the health and welfare of Marfa residents from the introduction and spread of COVID-19, especially for our elderly and at-risk populations; and

WHEREAS, Pursuant to Texas Health and Safety Code §121.003(a), the governing body of a municipality may enforce any law that is reasonably necessary to protect public health; and

WHEREAS, Texas Health and Safety Code §122.005 authorizes the Marfa City Council to establish regulations necessary to prevent the introduction of a communicable disease into the municipality; and

WHEREAS, on April 2, 2020, Mayor Baeza issued his First Supplemental Emergency Disaster Declaration enacting three additional measures to prevent the spread of COVID-19 in Marfa, Texas: (1) requirement for 14-day self-quarantine; (2) prohibition on door-to-door sales or solicitations; and (3) regulating long-term rentals (rentals of over 30 days) and all rental advertising; and

WHEREAS, Mayor Baeza also updated the following two measures in response to Governor Abbott's Executive Order GA-14, in order to align city mandates with state mandates: (1) church services; and (2) determinations regarding essential personnel and businesses; and

WHEREAS, on April 8, 2020 the Marfa City Council voted to extend Mayor Baeza's Disaster Declaration and First Supplemental Disaster Declaration, and to incorporate these additional measures into Ordinance 2020-02 (Order Continuing Disaster Declaration) and Ordinance 2020-03 (Shelter in Place Order) as appropriate; and

WHEREAS, this Ordinance is hereby amended to include provisions regarding prohibition of regulation of long-term rentals and all rental advertising (Section 7), prohibition of door-to-door sales and solicitations (Section 8), and church services (Section 9); and

WHEREAS, due to increases in wholesale prices due to supply chain disruptions, the Marfa City Council on April 8, 2020 voted to remove price controls (formerly Section 12); and

WHEREAS, the following emergency measures, including the three new measures in Sections 7, 8, and 9 herein, are continued and extended by the Marfa City Council and shall remain in effect through 11:59 p.m. on April 30, 2020:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARFA, TEXAS:

That the following measures are hereby in effect:

1. CONTINUATION OF DISASTER DECLARATION.

That the local state of disaster due to public health emergency is hereby extended and continued for the City of Marfa pursuant to Texas Government Code §418.108(b), and shall remain in effect through April 30, 2020.

2. STATE AND FEDERAL GUIDANCE.

The City authorizes the Emergency Management Director (Mayor) or his designee to update, restrict, and promulgate regulations necessary to comply with Federal, State, and Local authorities' guidance in relation to COVID-19.

3. CITY BOARDS AND COMMISSIONS.

A. All City board and commission meetings shall take place via Zoom meetings while this ordinance is in effect.

B. Any boards and commissions that must meet pursuant to state law, should meet pursuant to the means allowed by the Texas Attorney General and institute best practices with regard to social distancing.

4. CITY HALL AND CITY BUILDINGS.

A. City Hall and city buildings (e.g. Library, Visitor Center, Gas Company) shall be closed to the public for the duration of this ordinance. Non-essential city personnel will be requested to work from home.

5. CITY PARKS AND EXERCISE.

A. City parks shall remain open during regular hours but are limited to a total of ten (10) people per park at one time. If ten (10) people are already in a city park, then individual(s) who arrive shall wait (practicing social distancing) until enough individuals leave before entering, so that the number of people at no time exceeds ten (10).

B. Individuals are permitted and encouraged to engage in outdoor activity such as walking (includes pet walking), running, hiking, biking, etc. provided the individuals comply with social distancing requirements. Group contact sports (football, basketball, etc.) are strongly discouraged.

6. HOTELS, MOTELS, AND SHORT-TERM RENTALS.

- A. All hotels, motels, short-term rentals, and short-term rental activities and businesses shall remain closed; however, hotels, motels, and short-term rentals may be utilized exclusively for guests that are active military, law enforcement, National Guard, Texas National Guard, emergency services personnel, health care professionals, and local residents subject to quarantine or self-quarantine.
- B. For purposes of this section, “local resident” is defined as a permanent resident of the tri-county area (Brewster, Jeff Davis, and Presidio counties) and/or his/her caregiver.

7. REGULATION OF LONG-TERM RENTALS AND ALL RENTAL ADVERTISING.

- A. In order to prevent the spread of COVID-19 within Marfa, Texas, and in response to “Escape to Marfa during COVID-19” advertisements by rental property owners, the City shall immediately begin regulating both short and long-term rental properties within the city limits.
- B. For the duration of this Order, long-term rentals (longer than 30 days) may be advertised and rented only to:
 - 1. Individuals who are essential personnel or actively engaged in essential business, as specified by the Texas Department of Emergency Management and the U.S. Department of Homeland Security; and
 - 2. Local residents. For purposes of this section, “local resident” is defined as a permanent resident of the tri-county area (Brewster, Jeff Davis, and Presidio counties) and/or his/her caregiver.
- C. Upon request by the City, lessors/landlords must provide a copy of their lease agreement(s), driver’s license(s) of lessees/tenants, and documentation of local resident status or essential personnel/business status under 4. A. above. A failure to provide this documentation upon request is punishable under Section 10 of this Order.
- D. Any advertisement for a rental property (long or short term) within the city limits of Marfa must contain the following language, in all caps and in legible and readable font:

PURSUANT TO CITY OF MARFA ORDINANCE 2020-02, DURING THE COVID-19 PANDEMIC THIS PROPERTY MAY ONLY BE RENTED TO LOCAL RESIDENTS OF PRESIDIO, BREWSTER, AND JEFF DAVIS COUNTY, TEXAS AND TO ESSENTIAL PERSONNEL OR ESSENTIAL BUSINESS PERSONNEL AS SPECIFIED BY THE TEXAS DEPARTMENT OF EMERGENCY MANAGEMENT AND THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY.

E. A failure to provide this mandatory notice within an advertisement for a long or short-term rental is a violation of this Order punishable under Section 10 below.

8. DOOR TO DOOR SALES.

Door-to-door sales and/or solicitations are prohibited.

9. CHURCH SERVICES.

In accordance with Governor Abbott's Executive Order GA-14, church services may continue. It is strongly recommended that services be held virtually to minimize the risk of spread of COVID-19. If religious services cannot be conducted from home or through remote services, then parishioners inside a church or place of worship are limited to ten (10) individuals per separate space. All parishioners shall practice Social Distancing before, during, and after worship services.

10. LIMITATION ON SIZE OF GATHERINGS.

A. Individuals shall limit the size of public or private gatherings to no more than ten (10) people in a single space. Those present shall practice social distancing to minimize risk. Funerals will be limited to immediate family only.

B. A "gathering" refers generally to a scheduled event or common endeavor where more than ten (10) persons are present in a confined space, room, or area (including indoor and outdoor spaces). For the purposes of clarity, a "gathering" includes services and events held at churches, halls, gyms, and public buildings, but does not include the following spaces:

- (1) Spaces where persons may be in transit such as a bus terminal;
- (2) Office spaces or residences;
- (3) Grocery stores and convenience stores; and
- (4) Medical facilities.

11. RESTAURANTS AND BARS.

- A. Bars, lounges, and taverns shall remain closed.
- B. Restaurants may remain open pursuant to the following:
 - (1) No in-house dining; restaurants may sell food and alcohol through takeout and delivery only;
 - (2) Restaurants shall disinfect and sanitize commonly touched surfaces and non-food contact surfaces at least once per hour;
 - (3) Restaurants must adopt and implement a screening policy for food handlers and all employees and establish protocols for employees' exclusion if they have a fever greater than 100 degrees and coughing/shortness of breath; and
 - (4) Restaurants must make available and visible COVID-19 preventative print material within the restaurant.

12. TEMPORARY ASSISTANCE TO AFFECTED CITY EMPLOYEES.

- A. In addition to the family leave periods contained within the City of Marfa Employee Handbook, the City shall provide an additional two (2) weeks of paid sick leave to employees that contract COVID-19 or are experiencing COVID-19-type symptoms, or are caring for someone with COVID-19, or are subject to quarantine or self-quarantine.
- B. The City urges all businesses to provide two weeks of paid sick leave to employees that contract COVID-19 or are experiencing COVID-19-type symptoms, are caring for someone with COVID-19, or are subject to quarantine or self-quarantine.

13. TEMPORARY CESSATION OF VACATION LEAVE.

- A. Except for good cause as determined by the City Manager, granting of vacation leave shall be suspended for the duration of this ordinance.
- B. Employees shall not lose any vacation leave they would otherwise be entitled to as a result of the implementation of this temporary emergency policy.

14. CITY UTILITIES.

- A. The City of Marfa shall not disconnect the provision of water, natural gas,

sewer and/or solid waste removal while this ordinance is in effect. Individuals who require additional time to pay for city services used during this emergency time period should contact city hall at (432) 729-4315 to establish a payment plan.

- B. Late fees and penalties for city utility services shall be waived effective March 19, 2020, continuing until thirty (30) days after all national, state, and local emergency declaration orders are lifted.
- C. Short-term rentals for solid waste disposal shall be reclassified as residential customers effective March 19, 2020, continuing until thirty (30) days after all state and local emergency declaration orders are lifted.
- D. To the extent allowed by law, no landlord shall evict a tenant for lack of payment while this ordinance is in effect.

15. VIRTUAL MEETINGS OF THE MARFA CITY COUNCIL.

- A. In accordance with Governor Abbott's March 16, 2020, suspension of the Open Meetings Act requirement of a physical gathering space for people to watch government meetings and ask questions, the Marfa City Council shall meet without an audience present for the duration of this ordinance. Council Members and staff may either choose to attend City Council Meetings in person or may connect remotely to the meeting as specified by the Governor and the Texas Attorney General.
- B. City Council Meetings shall be conducted via Zoom. Individuals wishing to participate in and/or provide public comment during the meetings shall be given specific instructions on the agenda postings of how to access the meeting as specified by the Governor and the Texas Attorney General.

16. VIOLATIONS AND PENALTIES.

- A. In accordance with Texas Government Code §418.173, a person who knowingly or intentionally violates this declaration commits an offense, punishable by a fine up to \$1,000.00 or confinement in jail for a term that does not exceed 180 days.
- B. In accordance with Texas Penal Code §12.05 and Governor Abbott's statewide disaster declaration, the following crimes are enhanced (increased) by one degree if committed during the time of disaster declaration:
 - Assault
 - Arson
 - Robbery



Teresa L. Todd, City Attorney

Teresa L. Todd

APPROVED AS TO FORM:

Teresa L. Todd, City Attorney

Teresa L. Todd

ATTEST:

Hon. Manuel V. Baeza, Mayor

Manuel V. Baeza

PASSED AND ADOPTED THIS 26th DAY OF MARCH, 2020 BY THE CITY COUNCIL OF THE CITY OF MARFA, TEXAS BY A VOTE OF 5 AYES AND 0 NAYS, AND AMENDED AS SPECIFIED HEREIN THIS 8TH DAY OF APRIL, 2020.

It is hereby declared to be the intention of the Marfa City Council that the phrases, sentences, paragraphs, and sections of this ordinance are severable. If any part of this ordinance shall be ruled unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutional phrase, sentence, paragraph, or section shall be severed from the ordinance by operation of the judgment; however, this unconstitutionality shall not affect the remaining phrases, sentences, paragraphs, and sections, which shall remain in full force and effect.

17. SEVERABILITY.

- Burglary
- Burglary of coin-operated machines
- Burglary of vehicles
- Criminal Trespass
- Theft